

# SENATE, No. 3351

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## STATE OF NEW JERSEY 217th LEGISLATURE

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INTRODUCED JUNE 22, 2017

**Sponsored by:**

**Senator NICHOLAS J. SACCO**

**District 32 (Bergen and Hudson)**

**SYNOPSIS**

Amends law to limit DEP's direct oversight of remediation of portion of contaminated site under certain circumstances.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning the remediation of certain contaminated sites  
2 and amending P.L.2009, c.60.

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4 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
5 *of New Jersey:*

6  
7 1. Section 27 of P.L.2009, c.60 (C.58:10C-27) is amended to  
8 read as follows:

9 27. a. Except as otherwise provided in subsection f. of this  
10 section or section 1 of P.L.2013, c.283 (C.58:10C-27.1), as  
11 applicable, the department shall undertake direct oversight of a  
12 remediation of a contaminated site under the following conditions:

13 (1) the person responsible for conducting the remediation has a  
14 history of noncompliance with the laws concerning remediation, or  
15 any rule or regulation adopted pursuant thereto, that includes the  
16 issuance of at least two enforcement actions after the date of  
17 enactment of P.L.2009, c.60 (C.58:10C-1 et al.) during any five-  
18 year period concerning a remediation;

19 (2) the person responsible for conducting the remediation at a  
20 contaminated site has failed to meet a mandatory remediation  
21 timeframe or an expedited site specific timeframe adopted by the  
22 department pursuant to section 28 of P.L.2009, c.60 (C.58:10C-28),  
23 including any extension thereof granted by the department, or a  
24 schedule established pursuant to an administrative order or court  
25 order; or

26 (3) unless a longer period has been ordered by a court, the  
27 person responsible for conducting the remediation has, prior to the  
28 date of enactment of P.L.2009, c.60 (C.58:10C-1 et al.), failed to  
29 complete the remedial investigation of the entire contaminated site  
30 10 years after the discovery of a discharge at the site and has failed  
31 to complete the remedial investigation of the entire contaminated  
32 site within five years after the date of enactment of P.L.2009, c.60  
33 (C.58:10C-1 et al.).

34 As used in this subsection, "enforcement action" means an  
35 administrative order, a notice of civil administrative penalty, or a  
36 court order.

37 b. The department may undertake direct oversight of a  
38 remediation of a contaminated site under the following conditions:

39 (1) the contamination at the site includes chromate chemical  
40 production waste;

41 (2) the department determines that more than one  
42 environmentally sensitive natural resource has been injured by  
43 contamination from the site;

44 (3) the site has contributed to sediments contaminated by  
45 polychlorinated biphenyl, mercury, arsenic, or dioxin in a surface  
46 water body; or

**EXPLANATION** – Matter enclosed in bold-faced brackets **【thus】** in the above bill is  
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 (4) the site is ranked by the department in the category requiring  
2 the highest priority pursuant to the ranking system developed  
3 pursuant to section 2 of P.L.1982, c.202 (C.58:10-23.16).

4 c. For any site subject to direct oversight by the department  
5 pursuant to this section:

6 (1) the department shall review each document submitted by a  
7 licensed site remediation professional and shall approve or deny the  
8 submission;

9 (2) a feasibility study shall be performed and submitted to the  
10 department for approval;

11 (3) the department shall select the remedial action for the site;

12 (4) the person responsible for conducting the remediation shall  
13 establish a remediation trust fund pursuant to section 25 of  
14 P.L.1993, c.139 (C.58:10B-3) in the amount of the estimated cost of  
15 the remediation;

16 (5) all disbursements of funds from the remediation trust fund  
17 shall require prior approval by the department;

18 (6) all submissions prepared by the licensed site remediation  
19 professional concerning the remediation required by the department  
20 shall be provided simultaneously to the department and the person  
21 responsible for conducting the remediation; and

22 (7) the person responsible for conducting the remediation shall  
23 implement a public participation plan approved by the department  
24 to solicit public comment from the members of the surrounding  
25 community concerning the remediation of the site.

26 d. The department shall issue guidelines establishing specific  
27 criteria for the conditions under which a site may be subject to  
28 direct oversight pursuant to subsection b. of this section.

29 e. (1) Any oversight procedure, remedy, or other obligation in  
30 P.L.2009, c.60 (C.58:10C-1 et al.) shall not affect a remediation  
31 conducted pursuant to and in compliance with a settlement of  
32 litigation to which the department is a party if the settlement (a)  
33 occurred prior to the date of enactment of P.L.2009, c.60  
34 (C.58:10C-1 et al.), or (b) is a settlement of litigation pending on  
35 the date of enactment of P.L.2009, c.60 (C.58:10C-1 et al.).

36 (2) For any litigation pending or settled on the date of enactment  
37 of P.L.2009, c.60 (C.58:10C-1 et al.), concerning a remediation  
38 performed pursuant to the "Resource Conservation and Recovery  
39 Act," 42 U.S.C. s.6921 et seq., nothing in P.L.2009, c.60  
40 (C.58:10C-1 et al.) shall affect an oversight procedure, remedy, or  
41 other obligation imposed by a federal administrative order or  
42 federal court order.

43 f. For any site subject to direct oversight by the department  
44 pursuant to subsection a. of this section, the department shall not  
45 undertake direct oversight for that portion of a site where a remedial  
46 action workplan and any amendments thereto: (1) have been  
47 approved by the licensed site remediation professional responsible  
48 for the implementation of the remediation of the site, and (2)

1 comply with the requirements set forth in subsection c. of section  
2 14 of P.L.2009, c.60 (C.58:10C-14). Nothing in this subsection  
3 shall limit the authority of the department pursuant to section 21 of  
4 P.L.2009, c.60 (C.58:10C-21).  
5 (cf: P.L.2013, c.283, s.2)

6  
7 2. This act shall take effect immediately.  
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10 STATEMENT  
11

12 The bill would amend the section of the “Site Remediation  
13 Reform Act” (SRRA) pertaining to the authority of the Department  
14 of Environmental Protection (DEP) to undertake direct oversight of  
15 a remediation of a contaminated site. SRRA requires the DEP to  
16 undertake direct oversight of a remediation of a contaminated site  
17 when: the person responsible for conducting the remediation has a  
18 history of noncompliance with the laws concerning remediation that  
19 includes at least two enforcement actions after the date of  
20 enactment of the law during any five-year period concerning a  
21 remediation; the person has failed to meet a mandatory remediation  
22 timeframe or an expedited site specific timeframe; or the person,  
23 prior to the date of enactment of the law, has failed to complete the  
24 remedial investigation of the entire contaminated site 10 years after  
25 the discovery of a discharge at the site and has failed to complete  
26 the remedial investigation of the entire contaminated site within  
27 five years after the date of enactment of the law.

28 This bill would provide that when the DEP undertakes direct  
29 oversight under one of the scenarios described above, it would be  
30 prohibited from undertaking direct oversight for that portion of the  
31 site for which a remedial action workplan and any amendments  
32 thereto: (1) have been approved by the licensed site remediation  
33 professional responsible for the implementation of the remediation  
34 of the site, and (2) comply with the requirements set forth in  
35 subsection c. of section 14 of P.L.2009, c.60 (C.58:10C-14). The  
36 bill would also provide that the DEP’s inspection and review  
37 authority pursuant to section 21 of P.L.2009, c.60 (C.58:10C-21)  
38 would not be affected.